Filed 4/25/12 Acosta v. Ashburne CA2/8

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

HELEN ACOSTA et al., Plaintiffs and Respondents, v. PATRICIA ASHBURNE et al., Defendants and Appellants.	B233748 (Los Angeles County Super. Ct. No. MC018150)

APPEAL from the judgment of the Superior Court of Los Angeles County. Carlos P. Baker, Jr., Judge. Affirmed.

Patricia Ashburne, in pro. per., for Defendant and Appellant.

Allen Brown, in pro. per., for Defendant and Appellant.

Pat Murphy for Plaintiffs and Respondents.

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Defendants Patricia Ashburne and Allen Brown appeal from the default judgment entered against them, and various other orders of the court. Because their appellate briefs and appendices shed little light on the basis of the claimed errors, defendants have not satisfied their burden on appeal. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We are able to glean the following facts from respondents' appendix: Helen Acosta and Oscar Aleman sued Diana Beard-Williams, Rod Flowers, and The F.A.B. Group, who are not parties to this appeal,[1] for breach of a partnership agreement, breach of fiduciary duties, fraud, conversion, and elder abuse. Defendants Patricia Ashburne and Allen Brown were later added by Doe amendments. Ashburne and Brown were personally served with the summons and complaint, and their defaults were entered on July 9, 2010, after they failed to answer. On May 6, 2011, Brown filed a "Motion Removing Allen Brown as a Doe and to Reverse Any Default Judgment." On May 11, 2011, Ashburne filed a "Motion to Reverse Default Judgment and Removal as Doe in Case." Defendants did not appear for the hearing on their motions, and the court deemed the motions to have been withdrawn. Plaintiffs requested entry of a default judgment, supported by declarations and other evidence, and a default judgment was entered on May 13, 2011, against defendants Diana Beard-Williams, The F.A.B. Group, Patricia Ashburne, and Allen Brown. The evidence in support of the judgment showed that plaintiffs formed a real estate investment partnership, F.A.B. Group, with Beard-Williams and Flowers. However, Beard-Williams converted partnership funds to purchase properties in her own name, and in the names of Ashburne and Brown.

DISCUSSION

On appeal, defendants complain that "Judge . . . Baker intentionally and willingly disregarded the Federal Bankruptcy Order 727," "[n]o prima facie evidence was ever presented to tie DOES Ashburne and Brown to the case against Defendant Beard-

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[1] Defendant Diana Beard-Williams dismissed her appeal after the default judgment entered against her was vacated by stipulation.

Williams," "Plaintiff Aleman has repeatedly used the courts as a weapon of destruction against defendant Beard-Williams[. . . and] is engaging in the same type of legal 'stalking' in a current case with his former wife," and "[t]he $100,000 judgment . . . against Defendant Beard-Williams was reversed by Plaintiffs . . . AFTER Beard-Williams went before the Los Angeles County Board of Supervisors and asked for help[,]" among other claimed errors. Defendants' appellate appendices, filed in lieu of a clerk's transcript, do not contain the complaint, proofs of service, entries of default, minute orders ruling on their motions to "reverse" the defaults, or notices of appeal. The appendices do contain numerous documents of unknown origin which are not file-stamped, and are not in any discernible order. Respondents, however, provided a three-volume appendix containing many, but not all, of the relevant records from the underlying proceedings.

Defendants' appeal is gravely deficient. Their appendices do not include the relevant and required records from the trial court and are disorganized. (Cal. Rules of Court, rules 8.122 (b) [appendix must contain the notice of appeal and any order appealed from]; rule 8.124 (b) [appendix must contain any item that is "necessary for proper consideration of the issues"]; rule 8.144 (a) [the appendix must be arranged chronologically].) It was defendants' burden to provide an adequate record to establish prejudicial error. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, 566; *Altman v. Poole* (1957) 151 Cal.App.2d 589, 593.) This burden was clearly not satisfied.

Moreover, defendants' briefs are confusing and at times totally unintelligible, and do not comply with the California Rules of Court. (See Cal. Rules of Court, rule 8.204 (a) [appellate briefs must include a table of authorities, references to the record, argument and citation to authority; "[s]tate the nature of the action, the relief sought in the trial court, and the judgment or order appealed from"; and "[p]rovide a summary of the significant facts limited to matters in the record"].) The briefs consist largely of unsupported accusations which are outside the appellate record. No pertinent cases or statutes have been cited, and no citations to defendants' deficient appendices were provided. "'The reviewing court is not required to make an independent, unassisted

study of the record in search of error or grounds to support the judgment. . . . [E]very brief should contain a legal argument with citation of authorities on the points made. If none is furnished on a particular point, the court may treat it as waived, and pass it without consideration.' [Citation.]" (*McComber v. Wells* (1999) 72 Cal.App.4th 512, 522.) These rules are the same for self-represented litigants. (*Ibid*.)

Technical rules of procedure should not, when possible, be applied in a manner that deprives litigants of a hearing. But in this case, defendants' total failure to provide a complete and accurate record and coherent arguments makes meaningful appellate review impossible. (See *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.) We therefore treat the issues raised on appeal as waived.

DISPOSITION

The judgment is affirmed. Respondents are to recover their costs on appeal.

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GRIMES, J.

WE CONCUR:

RUBIN, ACTING P. J.

FLIER, J.